

Proposed technical correction:

SECTION ____. G.S. 143C-6-4(b) reads as rewritten:

[§ 143C-6-4. Budget Adjustments Authorized.

(a) Findings. – The General Assembly recognizes that even the most thorough budget deliberations may be affected by unforeseeable events; therefore, under the limited circumstances set forth in this section, the Director is authorized to adjust the enacted budget by making transfers among lines of expenditure, purposes, or programs or by increasing expenditures funded by departmental receipts.]

"(b) Budget Adjustments. – Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was appropriated in the certified budget by adjusting the authorized budget for all of the following:

- (1) Line items within programs. – An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.
- (2) Responses to extraordinary events. – A purpose or program if the overexpenditure of the purpose or program is:
 - a. Required by a court or Industrial Commission order;
 - b. Authorized under ~~G.S. 166A-19.40(a)~~ G.S. 166A-19.40(a)(1) and (c) of the North Carolina Emergency Management Act; or
 - c. Required to call out the North Carolina National Guard.
- (3) Responses to unforeseen circumstances. – A purpose or program not subject to the provisions of subdivision (b)(2) of this subsection, if each of the following conditions is satisfied:
 - a. The overexpenditure is required to continue the purpose or programs due to complications or changes in circumstances that could not have been foreseen when the budget for the fiscal period was enacted.
 - b. The scope of the purpose or program is not increased.
 - c. The overexpenditure is authorized on a one-time nonrecurring basis for one year only, unless the overexpenditure is the result of (i) salary adjustments authorized by law or (ii) the establishment of time-limited positions funded with agency receipts."

[(b1) If the overexpenditure would cause a department's total requirements for a fund to exceed the department's certified budget for a fiscal year for that fund by more than three percent (3%), the Director shall consult with the Joint Legislative Commission on Governmental Operations prior to authorizing the overexpenditure.

(b2) Subsection (b) of this section shall not be construed to authorize budget adjustments that cause General Fund expenditures, excluding expenditures from General Fund receipts, to exceed General Fund appropriations for a department.

(c) Overexpenditures Reported. – The Director shall report quarterly, beginning October 31, to the Joint Legislative Commission on Governmental Operations on overexpenditures approved by the Director under subdivisions (2) and (3) of subsection (b) of this section.

(d) Overexpenditures in Senate Budget. – The President Pro Tempore of the Senate may approve expenditures for more than was authorized in the enacted budget for objects or line items in the budget of the Senate.

(e) Overexpenditures in House of Representatives Budget. – The Speaker of the House of Representatives may approve expenditures for more than was authorized in the enacted budget objects or line items in the budget of the House of Representatives.

(f) Transfers Between Line Items or Programs in General Assembly Budget Other Than Senate and House of Representatives. – Expenditures exceeding amounts authorized for programs, objects, or line items in the budget of the General Assembly other than those of the Senate and House of Representatives shall be approved jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(g) Transfers in The University of North Carolina Budget. – Transfers or changes within the budget of The University of North Carolina may be made as provided in Article 1 of Chapter 116 of the General Statutes.

(h) Transfers Within the Office of the Governor. – Transfers or changes as between objects or line items in the budget of the Office of the Governor may be made by the Governor. (2006-203, s. 3; 2007-117, s. 4; 2009-281, s. 1; 2011-183, s. 127(c); 2012-12, s. 2(x); 2013-360, s. 6.12(n).)]

Explanation: updates references

From: Ben Stanley (Bill Drafting)

Sent: Wednesday, October 28, 2015 3:06 PM

To: Bly Hall (Bill Drafting)

Subject: Item for Potential Inclusion in Next Tech Corrects Bill

Bly,

I have found an item for potential inclusion in the next technical corrections bill (and the mistake is entirely mine!). This year's budget included [2015-241, s. 6.19 - Bly]the following revision to G.S. 166A-19.40:

EMERGENCY AND DISASTER RESPONSE FUNDING CHANGES

SECTION 6.19.(a) G.S. 166A-19.40 reads as rewritten:

"§ 166A-19.40. Use of contingency and emergency funds.

(a) ~~Use of Funds for Relief and Assistance. — Contingency and Emergency Funds. —~~
The Governor may use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of an emergency and may reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of the emergency so requires and the contingency and emergency funds are insufficient or inappropriate funds:

- (1) As necessary and appropriate to provide relief and assistance from the effects of an emergency.
- (2) As necessary and appropriate for National Guard training in preparation for emergencies with the concurrence of the Council of State.

(b) ~~Use of Funds for National Guard Training. — In preparation for a state of emergency, with the concurrence of the Council of State, the Governor may use contingency and emergency funds as necessary and appropriate for National Guard training in preparation for emergencies.~~

(c) Use of Other Funds. — The Governor may reallocate such other funds as may reasonably be available within the appropriations of the various departments when all of the following conditions are satisfied:

- (1) The severity and magnitude of the emergency so requires.
- (2) Contingency and emergency funds are insufficient or inappropriate.
- (3) A state of emergency has been declared pursuant to G.S. 166A-19.20(a).
- (4) Funds in the State Emergency Response and Disaster Relief Fund are insufficient."

For present purposes, all you need to know is that this statute previously authorized expenditure of both Contingency and Emergency Funds and “such other funds as may reasonably be available” in the same subsection (a). After the revisions, however, this authority is split between two subsections (a) and (c).

G.S. 143C-6-4 authorizes spending more than was appropriated for a particular purpose or program. One of the situations when this is allowed is when “[a]uthorized under G.S. 166A-19.40(a)”:

§ 143C-6-4. Budget Adjustments Authorized.

(a) Findings. - The General Assembly recognizes that even the most thorough budget deliberations may be affected by unforeseeable events; therefore, under the limited circumstances set forth in this section, the Director is authorized to adjust the enacted budget by making transfers among lines of expenditure, purposes, or programs or by increasing expenditures funded by departmental receipts.

(b) Budget Adjustments. - Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was appropriated in the certified budget by adjusting the authorized budget for all of the following:

- (1) Line items within programs. - An object or line item within a purpose or program so long as the total amount expended for the purpose or program is no more than was authorized in the certified budget for the purpose or program.
- (2) Responses to extraordinary events. - A purpose or program if the overexpenditure of the purpose or program is:
 - a. Required by a court or Industrial Commission order;
 - b. Authorized under G.S. 166A-19.40(a) of the North Carolina Emergency Management Act; or
 - c. Required to call out the North Carolina National Guard.

In light of the changes made to G.S. 166A-19.40 in this year’s budget, however, the reference in G.S. 143C-6-4(b)(2)b. to “G.S. 166A-19.40(a)” should in fact be a reference to “G.S. 166A-19.40(a) or (c).” To make it even simpler, I think you could just change the reference to “G.S. 166A-19.40”.

Let me know if this doesn’t make sense or if you have any additional questions.

Thank you,

Ben

Excerpts from S.L. 2012-12:

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2012-12
HOUSE BILL 843**

**AN ACT TO MODERNIZE THE NORTH CAROLINA EMERGENCY MANAGEMENT ACT
AND RELATED STATUTES.**

The General Assembly of North Carolina enacts:

I. CHANGES TO CHAPTER 166A OF THE GENERAL STATUTES

SECTION 1.(a) G.S. 166A-6.1 is recodified as G.S. 166A-29 and the remainder of Article 1 of Chapter 166A is repealed.

SECTION 1.(b) Chapter 166A of the General Statutes is amended by adding a new Article to read:

"Article 1A.

"North Carolina Emergency Management Act.

"Part 1. General Provisions.

"§ 166A-19. Short title.

This Article may be cited as "North Carolina Emergency Management Act."

...

"Part 6. Funding of Emergency Preparedness and Response.

"§ 166A-19.40. Use of contingency and emergency funds.

(a) Use of Funds for Relief and Assistance. - The Governor may use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of an emergency and may reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of the emergency so requires and the contingency and emergency funds are insufficient or inappropriate.

(b) Use of Funds for National Guard Training. - In preparation for a state of emergency, with the concurrence of the Council of State, the Governor may use contingency and emergency funds as necessary and appropriate for National Guard training in preparation for emergencies.

...

SECTION 2.(x) G.S. 143C-6-4(b)(2) reads as rewritten:

"(b) Adjustments to the Certified Budget. - Notwithstanding the provisions of G.S. 143C-6-1, a State agency may, with approval of the Director of the Budget, spend more than was authorized in the certified budget for all of the following:

...

(2) A purpose or program if the overexpenditure of the purpose or program is:

- a. Required by a court or Industrial Commission order;
- b. Authorized under ~~G.S. 166A-5(1)a.9.~~ G.S. 166A-19.40(a) of the North Carolina Emergency Management Act; or
- c. Required to call out the National Guard."